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C O N F I D E N T I A L SECTION 01 OF 03 BEIRUT 003543

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SUBJECT: RIZK FRETS ABOUT RUSSIA'S IMPACT ON TRIBUNAL, GOL
DEBATE

REF: BEIRUT 3517

Classified By: Jeffrey Feltman, Ambassador, per 1.4 (b) and (d).

SUMMARY

1. (C/NF) Asking to see the Ambassador urgently on 11/5, Minister of Justice Charles Rizk said that his lunch the previous day with Russian Ambassador Sergui Boukin had unnerved him. Despite soothing words about Moscow's "reservations" rather than "objections," Boukin presented Rizk with a list of concerns that, if heeded entirely, Rizk feared would have the combined effect of rendering the special tribunal on the Hariri assassination "meaningless." It would be impossible, under the Russian preferences, to try Bashar al-Asad or Emile Lahoud, Rizk claimed. Besides getting Russia to back down on at least some of its demands, all efforts need to be made, Rizk urged, to achieve explicit Russian blessing for the tribunal. Rizk feared that Russian silence or abstention would be interpreted by Syria and its Lebanese allies as a green light to do anything to stop the tribunal. Rizk, claiming that his former friend Lebanese President Emile Lahoud is now determined to have Rizk removed from the cabinet, revealed that he had started to leak information about the Bank al-Medina scandal as subtle warning to Lahoud to be careful. End summary.

RUSSIAN AMBASSADOR OUTLINES CONCERNS

2. (C/NF) Rizk said that Boukin had emphasized that Russia had "reservations," not "objections," to the draft protocols to establish a special tribunal to try suspects in Rafiq Hariri's assassination. According to Rizk, Boukin's raised the following: duration of the tribunal (with Boukin arguing for an expiration date of two years), trials in absentia (with Russia rejecting the concept, and citing U.S. law among other justifications to oppose this), appointment of judges (with Russia asking that the Security Council, not the Secretary General, be responsible), the responsibility of

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superiors for actions taken by their subordinates (with Russia opposed altogether), and the linkage to the other fourteen attacks (with Russia opposed). After quizzing Boukin (who was "remarkably well informed about the details"), Rizk concluded that the Russians might reconsider who appoints the judges and whether a sufficiently tight formula could be found to permit the possibility of linkages to other cases. But Boukin, Rizk reported, was inflexible on

the other points.

RIZK FEARS CUMULATIVE IMPACT
WOULD RENDER TRIBUNAL "MEANINGLESS"

13. (C/NF) Rizk, more pessimistic and alarmist than he had been only a few days earlier (reftel), expressed concern that the cumulative impact of Russia's concerns, if accepted, would render the tribunal "meaningless." This is especially true, he argued, given the previous decision by UN/OLA to respond to P-5 concerns by eliminating the "crimes against humanity" language that would have paved the way to lifting national immunity. The Ambassador asked if Rizk could tell from Boukin what motivated the Russian concerns: "Maybe Putin is afraid of the precedent," Rizk mused; "maybe they are trying to protect the Syrians."

"IMPOSSIBLE" TO GET LAHOUD OR ASAD,
IF RUSSIAN RESERVATIONS ACCEPTED

14. (C/NF) In any case, the Russian reservations would make it "impossible," Rizk said, for the tribunal to consider the roles of Syrian President Bashar al-Asad or Lahoud. Both enjoy presidential immunity that now can't be lifted, he said, meaning that they cannot be turned over to the tribunal. The Syrians in particular will argue that all sorts of other officials, "anybody important," have immunity and refuse to turn over suspects, Rizk said. The elimination of the absentia trials means that none of these people will be tried. The two-year duration Russia wants would make it very easy for "clever lawyers" to delay or complicate proceedings until the court expires.

15. (C/NF) Rizk then raised the case of former Presidential
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Guard chief Mahmoud Hamdan, one of four Lebanese generals jailed since August 2005 on suspicion of involvement in the Hariri murder. Hamdan, Rizk said, "practically lived" with Lahoud (who is rumored to have had a sexual relationship with Hamdan, a possibility Rizk thinks unlikely while still finding the Lahoud-Hamdan relationship "weird"), spending most meals and evenings with Lahoud. If Hamdan is implicated in the Hariri murder, it is "not plausible" to think Lahoud did not know something was up. Yet Lahoud will not, under Russian reservations, be considered suspect by virtue of his supervision of Hamdan. "With all of these Russian concerns, Syria is winning," Rizk complained. "Russia would let Syria off the hook!"

BAD OPTION: PROCEEDING WITHOUT RUSSIA,
AS THEN "ANYTHING" MIGHT HAPPEN

16. (C/NF) Rizk urged that efforts be made to get Russia to drop its reservations, particularly regarding the duration of the court and the absentia trials. The Ambassador asked whether Rizk thought that Russia might be satisfied with expressing its concerns but allowing the drafts to move forward to Lebanon in any case. That option, Rizk said, would be "terrible." The Lebanese need to know that all P-5 countries are behind the drafts in order to win acceptance of the drafts in Lebanon. Without an explicit Russia acceptance, then Syria and its Lebanese allies will feel that they have an implicit green light from Moscow to do anything to block the tribunal. He predicted "enormous problems," including the possibility of further assassinations and bombings, if the drafts are forwarded to Tunisia without Russian approval. Yet Rizk also renewed his call that the drafts, with Russian approval, be sent to Lebanon "this week."

DRAFTS TO BE CIRCULATED IMMEDIATELY
UPON RECEIPT, BUT CABINET DEBATE LATER

¶7. (C/NF) The Ambassador asked Rizk's views on the timing for the cabinet debate, if in fact UN/OLA forwards tribunal drafts soon to Rizk. Rizk vowed to circulate the drafts immediately to cabinet ministers. But, acknowledging that these were simply his initial thoughts and subject to further consideration, he did not expect to table the drafts for formal cabinet approval until the conclusion of the political consultations called by Parliament Speaker Berri starting on 11/7. Quizzed by the Ambassador, Rizk said that, if the drafts were tabled immediately for cabinet debate, the tribunal would then become part of the political consultations, something to be "bargained over."

¶8. (C/NF) The Ambassador responded that, whether drafts are circulating or cabinet debate scheduled or not, surely the tribunal would be an important focus of the political consultations. Yes, Rizk responded, but it is better to have the tribunal only as a "subtext" than something tangible to be decided upon or "played with" in the explosive atmosphere likely to characterize Berri's consultations. "We have to insulate the tribunal from the politics and pretend it is a technical issue," Rizk argued, referring to the unanimous decision by the National Dialogue in March to accept the concept of the tribunal.

BANK AL-MEDINA TOOL FOR RIZK
AGAINST FORMER FRIEND LAHOUD

¶9. (C/NF) The Ambassador asked Rizk about his ongoing spat with his childhood friend, Emile Lahoud. Rizk, calling Lahoud "unbelievable stupid," claimed that he has good sources telling him that Lahoud now insists that Rizk be ousted from the cabinet. (Comment: We, too, have heard this, from a variety of sources. End comment.) Lahoud feels betrayed by Rizk's support of the tribunal, and Rizk said that he did not discount the possibility of danger to his life.

¶10. (C/NF) Rizk then drew the Ambassador's attention to a small article in the 11/5 al-Nahar newspaper noting that an unnamed judge alleged to be involved in the Bank al-Medina scandal had traveled with funds to a country known for its bank secrecy laws (which Rizk identified as Switzerland). This article, Rizk said, will set off alarm bells in Baabda Palace, for Lahoud will understand the reference and realize

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that Rizk has information on presidential son Emile Lahoud's dealings with Bank al-Medina. While refusing to share the details, Rizk said he would not hesitate to leak "all" if Lahoud continues to threaten Rizk. The Ambassador urged Rizk to accelerate judicial proceedings on the notorious Bank al-Medina file in any case, so that, at last, there can be transparency and justice in what is considered to be an enormous black hole of corruption linked to Syrian and Lebanese officials. Rizk claimed that the case is taking more time to develop than he would like.

COMMENT

¶11. (C/NF) Rizk gave us a tall order: persuade the Russians to drop their "reservations," and prod UN/OLA to provide the GOL with tribunal drafts enjoying P-5 consensus as soon as possible, preferably this week. We defer to the Department and to USUN as to whether Rizk's recount of the Russian concerns are up to date and to the lawyers as to whether the cumulative impact of the Russian reservations has the alarming potential Rizk describes. But we share Rizk's analysis that explicit Russian acceptance for the two drafts (one the tribunal's statute and the second the UN-GOL agreement establishing it) is needed here. Even P-5 consensus does not guarantee easy passage of the tribunal drafts, of course, but Russian objections will provide easy

excuses here to those who wish to delay or block acceptance.

¶12. (C/NF) As for Rizk's proposed timing -- to share the drafts with cabinet ministers immediately, but to delay formal submission for cabinet discussion and approval until the conclusion of Nabih Berri's political consultations -- we see self-preservation at work: Lahoud is out for Rizk's head, and Rizk's importance to the March 14 majority is linked solely to his work on the tribunal. Rizk probably suspects that the March 14 politicians, pressed to compromise on something with Hizballah and Michel Aoun in Berri's consultations, would be willing to trade him away if the tribunal is already finished. Despite his new admirers in March 14 circles, we suspect he is right. But we also know that, once UN/OLA submits the final tribunal drafts to Beirut, Rizk alone will not be able to delay formal cabinet debate. As for his intriguing comments about solid evidence linking the Lahoud family to Bank al-Medina, we will continue to press him for details.

FELTMAN